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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 JAMES ALLEN KINNEY,) CASE NO.: C08-0489-RAJ-MAT
09)
Petitioner,)
10)
v.) ORDER GRANTING PETITIONER'S
11) MOTION FOR EXTENSION OF
JEFFREY A. UTTECHT,) TIME; DENYING PETITIONER'S
12) MOTION TO VACATE SENTENCE
Respondent.)
13

14 Petitioner is a Washington state prisoner who has filed a *pro se* habeas petition, to which
15 respondent has filed an answer. Petitioner has recently filed a motion for an extension of time and
16 also a motion to vacate his sentence. (Dkt. Nos. 33 & 34). Having reviewed the motions, and the
17 balance of the record, the Court does hereby find and ORDER as follows:

18 (1) In his motion for extension of time, petitioner states that he has recently been
19 transferred to a new prison and requires more time to gain access to the law library and typewriter.
20 In recognition of these needs and of petitioner's *pro se* status, the Court GRANTS petitioner's
21 motion for an extension of time. Petitioner shall file a response to respondent's answer no later
22 than **September 15, 2008**. No further extensions will be granted absent extraordinary

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01 circumstances. The Clerk shall REVOKE petitioner's habeas petition for consideration by the
02 Court on **September 19, 2008**.

03 (2) Petitioner's motion to vacate his sentence appears to be based upon petitioner's
04 allegation that prison officials have tampered with his mail. (Dkt. No. 34). As the Court
05 previously advised petitioner, the present habeas action is not the proper means to raise such a
06 concern. Rather, the proper course of action would be to file an action under 42 U.S.C. §1983
07 alleging a constitutional violation. *See Lewis v. Casey*, 518 U.S. 343, 354-55 (1996) (describing
08 kind of injury required to state a claim of a violation of a prisoner's right of access to the courts).
09 Because the Court may not consider the allegations presented by the motion here, petitioner's
10 motion (Dkt. No. 34) is DENIED.

11 (3) The Clerk shall forward a copy of this Order to petitioner, to counsel for
12 respondent, and to the Honorable Richard A. Jones.

13 DATED this 26th day of August, 2008.

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15 Mary Alice Theiler
16 United States Magistrate Judge
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